

**CITY OF SEABROOK
ORDINANCE NO. 2016-03**

**PROHIBITING LICENSED OPEN CARRY OF HANDGUNS
IN GOVERNMENTAL MEETINGS**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS AMENDING CHAPTER 2 "ADMINISTRATION," ARTICLE I. "IN GENERAL," OF THE CODE OF ORDINANCES OF THE CITY OF SEABROOK, TEXAS BY ADDING A NEW SECTION 2-3 "PROHIBITION OF LICENSED OPEN CARRY IN GOVERNMENTAL MEETINGS SUBJECT TO THE OPEN MEETINGS ACT"; PROVIDING FOR A PENALTY IN AN AMOUNT OF \$500 OR THE MAXIMUM AMOUNT PERMITTED BY LAW FOR VIOLATION OF ANY PROVISIONS HEREOF BY INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR NOTICE AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Seabrook, Texas has studied the present provisions of Chapter 2 "Administration" of the Code of Ordinances of the City of Seabrook and has determined the need to update its provisions as a result of new legislation enacted related to firearm regulation; and

WHEREAS, House Bill 910, effective as of January 1, 2016, modified the current law relating to licensed open carry of handguns; and

WHEREAS, Section 46.035(c), Texas Penal Code, as amended, provides a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room where a meeting of a governmental entity is held if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by this chapter; and

WHEREAS, Section 30.07, Texas Penal Code, as amended by House Bill 910, provides a property owner may prohibit the open carry of handguns on their property by posting a sign on the property that meets certain requirements; and

WHEREAS, the City Council of the City of Seabrook has determined to prohibit the open carry of handguns in the rooms or rooms where a governmental meeting, subject to the Texas Open Meetings Act (Chapter 551 of the Government Code), is being held, as provided for by Texas Penal Code Section 30.07 "Trespass by License Holder with an Openly Carried Handgun" and Texas Penal Code Section 46.35(c) "Unlawful Carrying of Handgun by License Holder," for the protection of the citizen's health, safety and welfare, including avoidance of any potential chilling effect on free speech and open debate;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS:

SECTION 1. FINDINGS OF FACT.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and incorporated by reference.

SECTION 2. AMENDMENT TO THE CODE.

Chapter 2 "Administration," Article I. "In General," of the Code of Ordinances of the City of Seabrook, Texas is amended by adding a new Section 2-3 "Prohibition of Licensed Open Carry in Governmental Meetings Subject to the Open Meetings Act", as follows:

"Section 2-3 "Prohibition of Licensed Open Carry in Governmental Meetings Subject to the Open Meetings Act.

(a) Pursuant to effective notice provided by Texas Penal Code, Section 30.07 and section 46.035(c), as amended, the open carry of handguns is prohibited in the rooms or rooms where a governmental meeting, subject to the Texas Open Meetings Act (Chapter 551 of the Government Code) is being held.

(b) A person who unlawfully carries a handgun into a room or rooms where a governmental meeting is held subject to Chapter 551 of the Government Code, commits an offense as provided for and defined in section 46.035(g) of the Texas Penal Code, as amended.

(c) This section does not apply to peace officers as provided under Article 2.12 of the Texas Code of Criminal Procedure, or as otherwise provided by law.

Secs. 2-[3]4. -2-25. - Reserved"

SECTION 3[4]. NOTICE PROHIBITING OPEN CARRY

That the notice attached hereto as Exhibit "A", printed in contrasting colors with block letters at least one inch in height, shall be displayed in accordance with Section 30.07, Texas Penal Code, at the room or rooms during the time when a governmental meeting is held subject to the Open Meetings Act.

SECTION 5. POSTING OF NOTICE

The City Manager, or his/her designee(s), is hereby directed to post signage at the entrance to any meeting room(s) for which a governmental meeting is being held, and/or giving oral notice as provided herein, or as otherwise required by law. In addition, the City Manager, or his/her designee(s), may also provide additional "written communication" as defined by Section 30.07, Texas Penal Code, to persons licensed under Subchapter H, Chapter 411, Texas Government Code that the open carry of any handgun into the meeting room(s) while such meeting is being held is prohibited.

SECTION 6. INCORPORATION INTO THE CODE; PENALTY CLAUSE.

This Ordinance is hereby incorporated and made a part of the Seabrook City Code. Violation of this Ordinance is subject to the penalty section of said Code including, Section 1-15, "General Penalty; Continuing Violations" which provides that any person who shall violate any provision of this Ordinance, shall be fined in an amount of \$500, or the maximum amount permitted by law.

SECTION 7. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 8. SEVERABILITY.

In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Seabrook, Texas, declares that it would have passed each every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 9. NOTICE

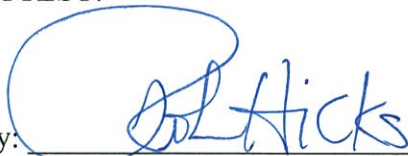
The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading this 2nd day of February, 2016.

PASSED, APPROVED, AND ADOPTED on second and final reading this 16th day of February, 2016.

By: 
Glenn Royal, Mayor

ATTEST:

By: 
Robin Hicks, TRMC
City Secretary



APPROVED AS TO FORM:



Steven L. Weathered
City Attorney

EXHIBIT "A"

Texas Penal Code 30.07:

"PURSUANT TO SECTION 30.07, TEXAS PENAL CODE (TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY."

Código Penal de Texas 30.07:

"DE CONFORMIDAD CON EL ARTÍCULO 30.07 DEL CÓDIGO PENAL TEXAS (SOBRE EL INGRESO ILÍCITO DE UN INDIVIDUO CON LICENCIA DE PORTACIÓN DE ARMAS CORTAS EXHIBIDAS PÚBLICAMENTE) UNA PERSONA CON LICENCIA, SEGÚN LO ESTABLECIDO EN LA SECCIÓN H, CAPÍTULO 411 DEL CÓDIGO GUBERNAMENTAL DE TEXAS (SOBRE LA LEY DE EXPEDICIÓN DE LICENCIA DE ARMAS CORTAS), TIENE PROHIBIDO INGRESAR EN ESTA PROPIEDAD CON ARMAS CORTAS EXHIBIDAS PÚBLICAMENTE."